

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

PACE-O-MATIC, INC.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	NO. 20-CV-292
	:	
ECKERT, SEAMANS, CHERIN &	:	JUDGE WILSON
MELLOTT, LLC,	:	
	:	ELECTRONICALLY FILED
Defendant.	:	

**PLAINTIFF’S AMENDED MOTION FOR PRELIMINARY INJUNCTION
TO ACCOUNT FOR EVENTS SINCE ORIGINAL MOTION WAS FILED**

Pursuant to the Orders of Court dated August 20, 2021 (ECF 152) and September 7, 2021 (ECF 155), Plaintiff Pace-O-Matic, Inc. (“POM”), by and through its undersigned counsel, hereby amends its pending Motion for Preliminary Injunction (ECF 12) as follows:

1. To include a request for preliminary injunctive relief against Defendants Mark S. Stewart and Kevin M. Skjoldal who were added as Defendants in the Amended Complaint filed on August 2, 2021 (ECF 145). Because Messrs. Stewart and Skjoldal are members of Defendant Eckert, Seamans, Cherin & Mellott, LLC (“Eckert”), a preliminary injunction barring Eckert from representing clients in matters adverse to POM due to a conflict of interest would likewise bar Messrs. Stewart and Skjoldal from representing parties adverse to POM. *See American Dredging Co. v. City of Philadelphia*, 389 A.2d 568, 572 (Pa. 1978)

("[W]hen one attorney is prohibited by ethical considerations from undertaking to represent a certain client, all members of the firm to which that attorney belongs are also prohibited from serving as counsel to that client.").

2. To supplement and particularize POM's proposed order based on discovery to date, including materials received as a result of the Honorable Joseph F. Saporito, Jr.'s February 16, 2021 ruling on POM's motion to compel discovery (ECF 87, 88). Specifically, POM additionally seeks an order preliminarily enjoining the Eckert firm and Messrs. Stewart and Skjoldal from: (a) representing, advising or otherwise supporting, directly or indirectly, any client adverse to POM in any matter substantially related to Eckert's representation of POM; (b) communicating, directly or indirectly, with any party, *amicus curiae*, intervenor or proposed intervenor or counsel for any party, *amicus curiae*, intervenor or proposed intervenor regarding the litigation matters initiated by POM in Pennsylvania Commonwealth Court; (c) representing any party, directly or indirectly, in any capacity or assisting, helping or communicating with any party or counsel for any party in any legal proceeding against any entity that hosts or offers POM's skill games or where POM's skill games are at issue; (d) representing any party, directly or indirectly, in any capacity, including as counsel for any industry group or association, in any matter adverse to POM or any POM affiliate directly or indirectly related to POM skill games; (e) advocating, directly or indirectly, in

any forum, including in any legislative, lobbying, government relations and/or public relations context, against the legality of electronic games of skill manufactured or distributed by POM or any POM affiliate; (f) advocating, directly or indirectly, that POM games are not games of skill or are not games where skill predominates over chance; and (g) using, relying on or disclosing any information acquired from Eckert's representation of POM.

POM incorporates its prior filings and attachments (ECF 12, 13, 26) and will file its supporting memorandum of law in relation to this amendment within 14 days in accordance with Local Rule 7.5.

Respectfully submitted,

s/ Daniel T. Brier
Daniel T. Brier
Donna A. Walsh

Attorneys for Plaintiff,
Pace-O-Matic, Inc.

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Dated: September 17, 2021

CERTIFICATE OF NON-CONCURRENCE

I, Daniel T. Brier, hereby certify that I sought the concurrence of counsel for Defendant, Robert S. Tintner, Esquire, in the request for additional relief in this Amended Motion. Mr. Tintner does not concur.

/s/ Daniel T. Brier
Daniel T. Brier

Date: September 17, 2021

CERTIFICATE OF SERVICE

I, Daniel T. Brier, hereby certify that a true and correct copy of the foregoing Amended Motion For Preliminary Injunction was served upon the following counsel of record via the Court's ECF system on this 17th day of September 2021:

Abraham C. Reich, Esquire
Robert S. Tintner, Esquire
Fox Rothschild LLP
2000 Market Street, 10th Floor
Philadelphia, PA 19103-3291

/s/ Daniel T. Brier
Daniel T. Brier